



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
ENVIRONMENTAL
CLEANUP

MAR 10 2020

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
URGENT LEGAL MATTER – PROMPT REPLY NECESSARY

Washington State Department of Transportation
310 Maple Park Avenue SE,
P.O. Box 47300
Olympia, Washington 98504-17300

Re: Harbor Island Superfund Site, East Waterway Operable Unit
King County, Washington
Request for Information and Documents
Section 104(e) of CERCLA, 42 U.S.C. § 9604(e)

Dear Sir or Madam:

The United States Environmental Protection Agency (EPA) is requesting information and documents from Washington State Department of Transportation (WSDOT) pursuant to Section 104(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604(e)(2). The Enclosure to this letter provides the details of this request. Within 60 calendar days of receipt of this letter, WSDOT is required to provide the EPA with complete and truthful answers to all questions posed in the Enclosure together with true and accurate copies of all documents requested therein. Compliance by WSDOT with this letter and the Enclosure is mandatory.

The failure to respond fully, truthfully and in a timely manner to this request by the EPA, or to adequately justify a failure to respond, may result in an enforcement action to compel production of the requested information and documents and impose a civil penalty of up to \$53,328 per day of violation. See Section 104(e) (5) of CERCLA, 42 U.S.C. § 9604(e) (5), as modified by the Civil Monetary Inflation Adjustment Rule, 85 Fed. Reg. 1751 (Jan. 13, 2020), 40 C.F.R. § 19.4, Table 1. Further, providing the EPA with false, fictitious, or fraudulent statements or representations may subject the responsible person(s) to criminal penalties under 18 U.S.C. § 1001.

This request for information and documents is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501, *et seq.* The response to this request for information and documents must be sent by mail service or electronically to the following person:

Ravi Sanga
Remedial Project Manager
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 900, MS ECL-122
Seattle, Washington 98101
email: sanga.ravi@epa.gov

WSDOT may consult with the EPA if there are questions or concerns regarding this matter. Please have inquiries from legal counsel directed to Richard D. Mednick, Associate Regional Counsel, at (206) 553-1797 or mednick.richard@epa.gov. Inquiries from other persons may be directed to Ravi Sanga, Remedial Project Manager, at (206) 553-1215 or sanga.ravi@epa.gov.

The EPA encourages WSDOT to give this matter immediate attention.

Sincerely,



Sheila Fleming, Acting Director
Superfund & Environmental Management Division

Enclosure

cc: Richard D. Mednick, EPA (w/encl.)
Ravi Sanga, EPA (w/encl.)

Enclosure
United States Environmental Protection Agency
Comprehensive Environmental Response, Compensation, and Liability Act
Request for Information and Documents
East Waterway Operable Unit
Harbor Island Site

This Enclosure is incorporated into the letter from the United States Environmental Protection Agency (EPA) in which the EPA requests information and documents pertaining to the East Waterway Operable Unit of the Harbor Island Site. Compliance by Respondent is required with all aspects of this Enclosure.

A. OVERVIEW

Respondent: Washington State Department of Transportation

Facility: East Waterway Operable Unit of the Harbor Island Site
City of Seattle, King County, Washington

Subject Property: Each parcel of property located within one mile of the East Waterway Operable Unit that is currently or was previously owned by Respondent or where Respondent conducts or has conducted any activities or operations

Date: First involvement with the Subject Property to the present

This Request for Information and Documents (Request) is provided by the United States Environmental Protection Agency (EPA) pursuant to Section 104(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604(e)(2). The focus of this Request is the East Waterway Operable Unit (EWOU) of the Harbor Island Site located in Seattle, King County, Washington. Information in the possession of the EPA suggests that Respondent owns or has owned property in the vicinity of the EWOU and that Respondent or its tenant(s) may have conducted operations within the vicinity of the EWOU.

The EWOU is shown on the attached figure. The southern boundary abuts the northern boundary of the Lower Duwamish Waterway Site. The northern boundary extends along the western pierhead line to the north until water depths reach -60 feet mean lower low water (MLLW). The boundary follows the approximate upper edge of this naturally occurring slope at about -60 feet MLLW, then turns to perpendicularly intersect the bulkhead along Terminal 46 (T-46) along the eastern shoreline. The east and west boundaries are areas below mean higher high water (MHHW; e.g., below 11.4 feet MLLW).

A Remedial Investigation and Feasibility Study has been completed for the EWOU. The EPA is preparing to issue a Proposed Plan which will set forth the preferred remedial action alternative for cleanup of the EWOU. Following public comment on the Proposed Plan, the EPA is planning to select a remedial action for the EWOU in a Record of Decision.

B. INSTRUCTIONS

1. Answer Each Question Completely. Provide a separate answer to each question and subpart set forth in this Request. Incomplete, evasive, or ambiguous answers shall constitute failure to respond to this Request and may subject the Respondent to penalties under CERCLA.
2. Response Format and Copies. Provide the responses to this Request and a copy of all requested documents electronically. The submission must include an index that lists all the responsive documents provided, and that indicates where each document is referenced in the written response, and to which question or questions each document is responsive. Additionally, clearly identify and segregate any information claimed by Respondent to be Confidential Business Information (CBI).

Electronic documents must be submitted on a USB drive in Portable Document Format (PDF) and comply with the following requirements:

- a. CBI and personal privacy information should be provided on separate media (e.g., a separate USB drive) and marked as such to ensure information is appropriately handled and physically separated from the other response information in the EPA's files.
 - b. The declaration must be provided in hard copy with an original signature.
 - c. All documents originally smaller than 11 by 17 inches can be submitted electronically; any documents originally larger than 11 by 17 inches must be submitted in hard copy.
 - d. Electronic PDF files must be text searchable.
 - e. The document index must clearly identify any single electronic document which has been separated into multiple electronic files (because of size limitation or otherwise) and each component file that comprises the full document.
3. Number Each Answer. Number each answer with the number of the question to which it corresponds.

4. Provide the Best Information Available. Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. Seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to Respondent will be considered noncompliance with this Request.
5. Identify Information Sources. For each question, identify all persons and documents relied upon for the answer.
6. Confidential Information. The information and documents requested herein must be provided even though Respondent may contend that it includes confidential information or trade secrets. Respondent may assert a confidentiality claim covering part or all the information requested, pursuant to 42 U.S.C. §§ 9604(e)(7)(E) and (F), and 40 C.F.R. § 2.203(b). All information claimed to be confidential should be contained on separate sheet(s) and should be clearly identified as "trade secret" or "proprietary" or "company confidential." A confidentiality claim should be supported by the submission of information consistent with 40 C.F.R. Part 2. Information covered by a confidentiality claim will be disclosed by the EPA only to the extent, and only by means of the procedures, provided in 40 C.F.R. §§ 2.201-2.311. **If no such claim accompanies the information received by the EPA, it may be made available to the public by the EPA without further notice.**
7. Disclosure to EPA Contractor. Information and documents submitted in response to this Request may be disclosed by the EPA to authorized representatives of the United States, pursuant to 40 C.F.R. § 2.310(h), even if Respondent asserts that all or part of it is confidential business information. The EPA may provide the information and documents to its contractors for the purpose of organizing and/or analyzing the information and documents contained in the responses to this Request. If submitting information and asserting it is entitled to treatment as confidential business information, Respondent may comment on the EPA's intended disclosure within 14 days of receiving this Request.
8. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy, should be segregated from responses, included on separate sheet(s), and marked as "Personal Privacy Information". Note, however, that unless prohibited by law, the EPA may disclose this information to the general public without further notice.
9. Objections. Respondent must provide responsive information notwithstanding objections to certain questions. To object without providing responsive information may subject Respondent to penalties under CERCLA.

10. Privilege. If a privilege is asserted for any document responsive to this Request, identify (see Definitions) the document and provide the basis for assertion. If a privilege exists for only a portion of a document, provide the portion of the document that is not asserted to be privileged, identify the portion that is asserted to be privileged, and provide the basis for asserting privilege. **Please note that regardless of the assertion of any privilege, any facts contained in the document which are responsive to the Request must be disclosed in the response from Respondent.**
11. Declaration. Respondent must complete the Declaration provided in section D of this Request, certifying the accuracy of all statements in the response.

C. DEFINITIONS

All terms not defined herein shall have their ordinary meaning, unless such terms are defined in Section 101 of CERCLA, 42 U.S.C. § 9601, or Section 300.5 of Volume 40 of the Code of Federal Regulations (C.F.R.), 40 C.F.R. § 300.5, in which case such statutory or regulatory definitions shall apply.

The following definitions shall apply to the following words as they appear in this Enclosure:

1. The term "Respondent" shall mean Washington State Department of Transportation, the addressee of this Request, together with the addressee's agents, employees, and contractors.
2. The terms "document" and "documents" shall mean any method of recording, storing, or transmitting information. "Document" shall include, but not be limited to:
 - a. writings of any kind, including, but not limited to, any of the following:
 - i. letters, memoranda, fax transmittals;
 - ii. meeting minutes, telephone records, notebooks;
 - iii. agreements and contracts;
 - iv. reports to shareholders, management, or government agencies;
 - v. transportation manifests;
 - vi. copies of any document;
 - b. any film, photograph, or sound recording on any type of device;
 - c. any blueprints or drawings; and

- d. attachments to, or enclosures with, any document.
3. The term "identify" means, with respect to a natural person, to set forth: (a) the person's full name, (b) present or last known business and home addresses and telephone numbers; and (c) present or last known employer (include full name and address) with job title, position, or business.
 4. The term "identify" means, with respect to a corporation, partnership, business trust, or other entity, to set forth: (a) its full name; (b) complete street address; (c) legal form (e.g., corporation, partnership, etc.); (d) the state under whose laws the entity was organized; and (e) a brief description of its business.
 5. The term "identify" means, with respect to a document, to provide: (a) its customary business description (e.g., letter, invoice); (b) its date; (c) its number if any (e.g., invoice or purchase order number); (d) the identity of the author, addressee, and/or recipient; and (e) a summary of the substance or the subject matter. **Alternatively**, Respondent may provide a complete copy of the document.
 6. The term "material" or "materials" shall mean any and all raw materials, commercial products, wastes, chemicals, substances, or matter of any kind.
 7. The "period being investigated" and "the relevant time period" shall mean the date of Respondent's first involvement at the Subject Property to the present.
 8. The term "Subject Property" shall mean each parcel of property located within a one mile of the EWOU currently or previously owned by Respondent or where Respondent has conducted any activities or operations.
 9. The "EWOU" shall mean that portion of the Harbor Island National Priority List CERCLA Site described in the Overview section of this Request and depicted in the Figure included with this Request.
 10. The term "waste" or "wastes" shall mean and include trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, and pollutants or contaminants, whether solid, liquid, or sludge, including, but not limited to, building debris and asbestos-containing material.
 11. The term "activities or operations" shall mean all actions, endeavors, ventures, or financing arrangements related in any manner whatsoever to the use and development of the Subject Property, including surveying, sampling, grading, documentation, photography, demolition, construction, waste storage or disposal, and sales.

D. QUESTIONS

1. Identification and Association with Subject Property

- a. Provide the full legal name and mailing address of Respondent.
- b. For each person answering these questions on behalf of Respondent, provide that person's:
 - i. full name;
 - ii. title;
 - iii. business address and electronic mail address; and
 - iv. business telephone number.
- c. If Respondent wishes to designate an individual for receiving future correspondence from the EPA concerning the EWOU, please indicate so here by providing that individual's name, mailing address, electronic mail address, telephone number, and fax number.
- d. Provide the address of each Subject Property, the time period when Respondent held any ownership or other interest in the Subject Property, and the type of interest held.
- e. Identify all materials used or created by Respondent's activities or operations at each Subject Property.
- f. Provide copies of all documents regarding the ownership or environmental conditions of the Subject Property, including, but not limited to, deeds, sales contracts, leases, surveys, investigations, sampling, reports, blueprints, "as-builts," and photographs.
- g. Provide information on the condition of the Subject Property when purchased or at the beginning of the relevant time period; describe the source, volume, and content of any fill used during the construction of the buildings, including waterside structures such as seawalls, wharves, docks, or marine ways.
- h. Describe the activities or operations at each Subject Property including:
 - i. the date such activities or operations commenced and concluded; and
 - ii. the types of activities or operations performed at each Subject Property, including but not limited to the use, storage, or disposal of any materials in

an outdoor location.

- i. Describe each release of materials at or from a Subject Property, including the type and quantity of the materials, the location of the release, the impacted media, and the response.
- j. Provide information on past dredging or future planned dredging in the EWOU.
- k. Provide all documents pertaining to the use, storage, or disposal of any hazardous substances, pollutants, or contaminants at the Subject Property.
- l. Provide all information on electrical equipment used at the Subject Property, including transformers or other electrical equipment that may have contained polychlorinated biphenyls (PCBs).
- m. Provide information on the type(s) of oils or fluids used for lubrication of machinery or other industrial purposes, and any other chemicals or products which are or may contain hazardous substances, pollutants, or contaminants which are or were used at the Subject Property.
- n. Provide any Subject Property drainage descriptions plans or maps that include information about storm drainage which includes, but is not limited to, above or below surface piping, ditches, catch basins, manholes, and treatment/detention or related structures including outfalls. If available, also include information about connections to each sanitary sewer.
- o. With respect to past activities or operations at each Subject Property, provide copies of any stormwater or drainage studies, including data from sampling, conducted at the Subject Property. Also provide copies of any Stormwater Pollution Prevention or Maintenance Plans or Spill Plans that may have been developed for different operations during Respondent's occupation of the Subject Property.
- p. Describe each underground storage tank present at any time on a Subject Property, including but not limited to the size and location of the tank, the materials stored in the tank, the time period of use, whether any material leaked from the tank, the type and quantity of leaked material, and the response to the leaked material.
- q. Provide the names and last known address of any tenants or lessees, the dates of their tenancy and a description of the activities or operations they conducted while present at the Subject Property.

- r. If Respondent, its parent corporation, subsidiaries or other related or associated companies have filed for bankruptcy, provide:
 - i. the U.S. Bankruptcy Court in which the petition was filed;
 - ii. the docket numbers of such petition;
 - iii. the date the bankruptcy petition was filed;
 - iv. whether the petition is under Chapter 7 (liquidation), Chapter 11 (reorganization), or other provision; and
 - v. a description of the current status of the petition.
- s. If not already provided, identify and provide a last known address or phone number for all persons, including Respondent's current and former employees or agents, other than attorneys, who have knowledge or information about the generation, use, purchase, storage, disposal, placement, or other handling of hazardous substances, pollutants, or contaminants, or transportation of hazardous substances, pollutants, or contaminants to or from, the Subject Property.

2. Financial Information

- a. Provide true and complete copies of all federal income tax documents, including all supporting schedules, for 2015, 2016, 2017, 2018, and 2019. Provide the federal Tax Identification Number and, if documentation is not available, explain why in detail.
- b. Provide Respondent's financial interest in, control of, or that Respondent is a beneficiary of any assets (in the U.S. or in another country) that have not been identified in the federal tax returns or other financial information to be presented to the EPA. If there are such assets, identify each asset by type of asset, estimated value, and location.
- c. If Respondent is, or was at any time, a subsidiary of, otherwise owned or controlled by, or otherwise affiliated with another corporation or entity, then describe the full nature of each such corporate relationship, including but not limited to:
 - i. a general statement of the nature of relationship, indicating whether the affiliated entity had, or exercised, any degree of control over the daily operations or decision-making of Respondent's business operations at the

Subject Property;

- ii. the dates such relationship existed;
- iii. the percentage of ownership of Respondent that is held by such other entity(ies);
- iv. for each such affiliated entity provide the names and complete addresses of its parent, subsidiary, and otherwise affiliated entities, as well as the names and addresses of each such affiliated entity's officers, directors, partners, trustees, beneficiaries, and/or shareholders owning more than five percent of that affiliated entity's stock;
- v. providing any and all insurance policies for such affiliated entity(ies) which may possibly cover the liabilities of Respondent associated with the Subject Property or the EWOU; and
- vi. provide any and all corporate financial information of such affiliated entities, including but not limited to total revenue or total sales, net income, depreciation, total assets and total current assets, total liabilities and total current liabilities, net working capital (or net current assets), and net worth.

3. Insurance Coverage

- a. Provide copies of all property, casualty and/or liability insurance policies, and any other insurance contracts referencing the Subject Property or EWOU and/or Respondent's business operations (including, but not limited to, Comprehensive General Liability, Environmental Impairment Liability, Pollution Legal Liability, Cleanup Cost Cap or Stop Loss Policies). Include, without limitation, all primary, excess, and umbrella policies which could be applicable to costs of environmental investigation and/or cleanup and include the years such policies were in effect.
- b. If there are any such policies from question "5a" above which existed, but for which copies are not available, identify each such policy by providing as much of the following information as possible:
 - i. the name and address of each insurer and of the insured;
 - ii. the type of policy and policy numbers;
 - iii. the per occurrence policy limits of each policy; and

- iv. the effective dates for each policy.
- c. Identify all insurance brokers or agents who placed insurance for Respondent at any time during the period being investigated, as identified at the beginning of this request and identify the time period during which such broker or agent acted in this regard.
- d. Identify all communication and provide all documents that evidence, refer, or relate to claims made by or on behalf of Respondent under any insurance policy in connection with the Subject Property or EWOU. Include any responses from the insurer with respect to any claims.
- e. Identify any previous settlements with any insurer in connection with the Subject Property or EWOU, or for any claims for environmental liabilities during the time period under investigation. Include any policies surrendered or cancelled by Respondent or insurer.
- f. Identify any and all insurance, accounts paid or accounting files that identify Respondent's insurance policies.
- g. Identify Respondent's policy with respect to document retention.

4. Compliance with This Request

- a. Describe all sources reviewed or consulted in responding to this Request, including, but not limited to:
 - i. the name and current job title of all individuals consulted; and
 - ii. the location where all documents reviewed are currently kept.

E. DECLARATION

I declare under penalty of perjury that I am authorized to respond on behalf of Respondent and that the foregoing is complete, true, and correct.

Executed on _____, 2020.

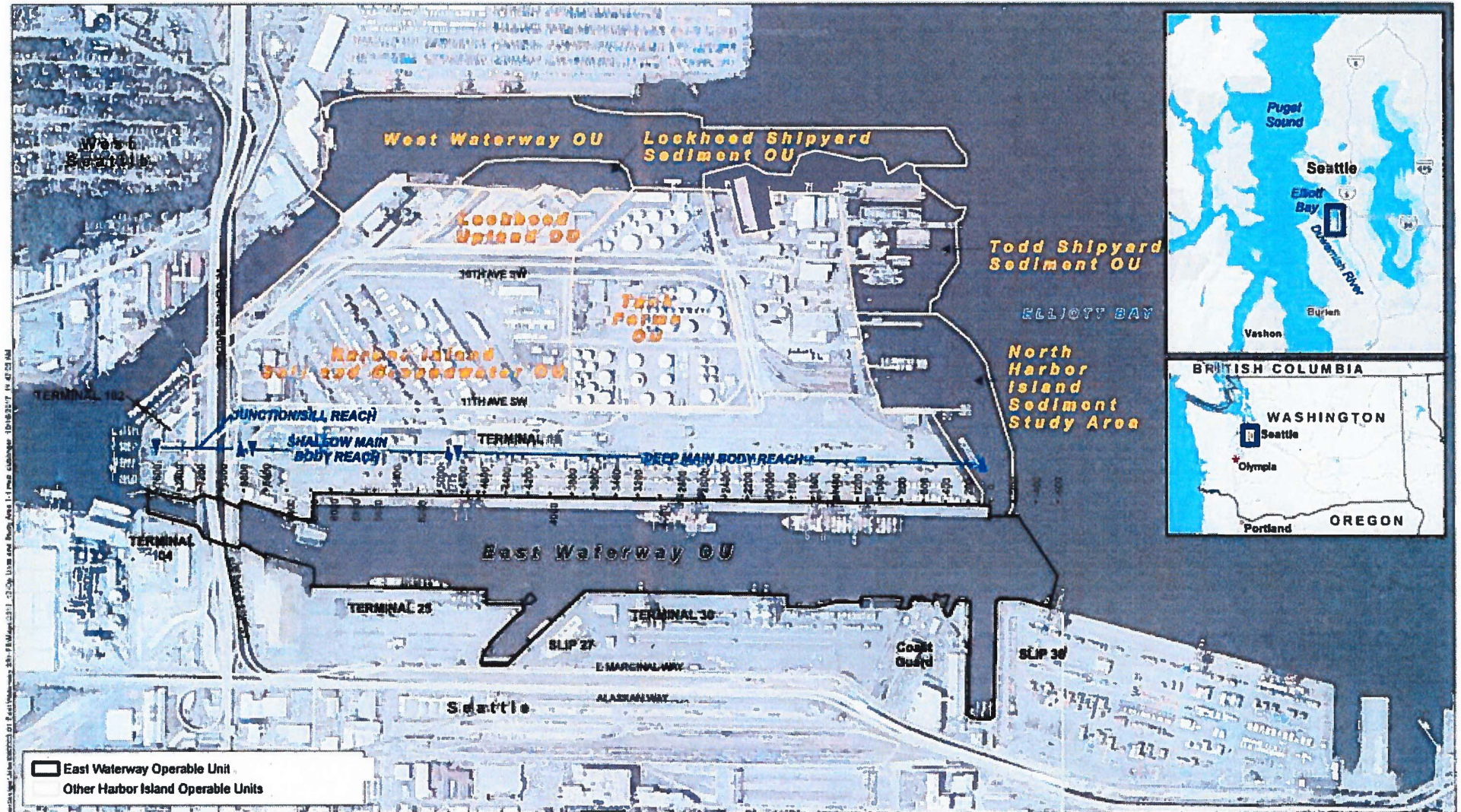
Signature

Type or Print Name

Title

Mailing Address:

Attachment to CERCLA 104(e) Request for East Waterway Operable Unit of the Harbor Island Site



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Scale In Feet